

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
**SHEILA L. BISHOP,**

Plaintiff,

-against-

**GREYSTONE PROPERTIES LLC,  
REMI, LLC, P.B. MARKOVIC PROJECT  
MANAGEMENT, THE CITY OF YONKERS  
BOB CIAMARRA, JAMES HANNIGAN and  
MATT FOLEY, all with the DEPARTMENT  
OF BUILDINGS of the CITY OF YONKERS.**

Defendants.  
-----x

**08 CIV. 6759**

INDEX # 2008-

JURY TRIAL  
DEMANDED

COMPLAINT

**JUDGE ROBINSON**

FILED  
U.S. DISTRICT COURT  
S.D. OF N.Y.  
JUL 29 2008  
6:44 AM  
CLERK'S OFFICE

The Plaintiff, SHEILA L. BISHOP, by her attorney ARNOLD S.

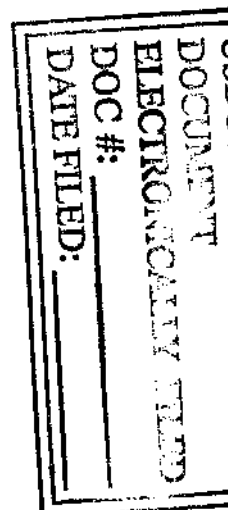
KRONICK, complaining of the Defendants states as follows:

**I. Introduction**

1. This is an action for money damages against the named defendants brought on behalf of plaintiff SHEILA L. BISHOP for the deprivation of rights arising under federal and state law.

2. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 to redress a denial, under color of state law, of rights secured to plaintiff by the aforementioned statute.

3. It is alleged that on or about July 2005 and through the present, the defendants, through their agents, servants, and/or employees negligently engaged in conduct both collectively and individually which unreasonably deprived plaintiff



SHEILA L. BISHOP of her rights privileges and immunities secured by the Fourteenth and Fifth Amendments to the United States Constitution in violation of 42 U.S.C. s 1983.

4. As a result of the foregoing facts, the defendants deprived plaintiff SHEILA L. BISHOP of her rights under the 14th and 5th amendments to the Constitution. Through the acts of the City and its employees Defendants effected a taking of her property without due process of law and denied Plaintiff the opportunity to fully hold, inhabit and/or enjoy her longtime home and property.

5. The City of Yonkers ("City") is liable for the damages complained of herein as a result of the City's adoption of certain policies and the passage of certain resolutions that resulted in the federal and state law violations committed by said defendants through its agents, servants and/or employees complained of herein or the City failed to adopt policies and failed to follow established policies that would have prevented said violations.

6. The actions of defendants, through their agents, servants, and/or employees subjected SHEILA L. BISHOP to numerous acts which either represent an enactment of policies or a failure to adhere to or to enact such policies, practices and procedures which resulted in the violation of her rights under New York State law and were in violation of the Zoning Code of the Defendant City.

7. Under state law, the defendants are vicariously liable for the violation of rights as pleaded aforesaid committed against SHEILA L. BISHOP by their agents, servants and employees who were acting within the scope of their employment and in the furtherance of the interests of said defendants.

8. Plaintiff is seeking compensatory and punitive damages.

## **II. Jurisdiction**

9. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331. Plaintiff further invokes the supplemental jurisdiction of this Court under 28 U.S.C. § 1367 to hear and decide claims arising under state law. Venue is proper in this district under 28 U.S.C. § 1391.

## **III. Parties**

10. At all times herein mentioned the Plaintiff was and is a resident of the State of New York and the County of Westchester and City of Yonkers with a residence owned by her at 1063 Warburton Avenue.

11. Upon information and belief the Defendants were and are domestic limited liability companies all maintaining having principal places of business in the State of New Jersey and maintaining places of business in the County of Westchester and State of New York.

12. The defendant, the CITY OF YONKERS, hereinafter "City", was and still is a municipal corporation, duly organized and existing under and by virtue of the laws of the State of New York.

13. Defendants BOB CIAMARRA, JAMES HANNIGAN and MATT FOLEY were and are, upon information and belief, employees of the City and employed in the Buildings and related departments thereof. As alleged herein they acted in the course of their employment with said City.

## **IV. Notice of Claim**

14. With respect to plaintiff's claims arising under state law, on July 2008, plaintiff duly and timely served and filed a Notice of Claim and Intention to Sue

upon and with Defendant City.

15. That at least thirty (30) days have elapsed since the demand or claim upon which this action is predicated was presented to the defendants for adjustment and they have neglected and/or refused to make adjustment or payment thereof.

16. The action was commenced within the term provided by statute after the cause of action occurred.

#### **V. Factual Allegations**

17. On or about and before May 5, 2004 the Defendants GREYSTONE PROPERTIES LC, P.B. MARKOVIC PROJECT MAMGEMENT and REMI, LLC and or their predecessors in interest commenced construction of a multi-family residence north of 1063 Warburton Avenue. Upon information and belief the construction project, site plan, soil boring studies and permit to undertake construction were reviewed by and approved by the Defendants CITY OF YONKERS, BOB CIAMARRA, JAMES HANNIGAN and MATT FOLEY.

18. Said project called for the extensive excavation of the properties located to the north of the plaintiff's property to depths well below the level of Warburton Avenue. Upon information and belief the Defendants CITY OF YONKERS, BOB CIAMARRA, JAMES HANNIGAN and MATT FOLEY approved such excavation after a review of the soil boring studies and supervised and/or monitored the work while in progress.

19. In the course of such excavation the Defendants GREYSTONE PROPERTIES LC, P.B. MARKOVIC PROJECT MAMGEMENT and REMI, LLC and or their predecessors in interest installed steel sheathing along the north side of the

and damage to plaintiff's residence.

22. The policies and practices of the Defendant CITY were and are such as to inadequately approve, supervise, train their inspectors and monitor development proposals and construction sites and resulted in violations the Code of the Defendants CITY OF YONKERS, BOB CIAMARRA, JAMES HANNIGAN and MATT FOLEY and of plaintiff's rights under the 14th and 5th amendments to the Constitution.

23. Upon information and belief the Defendants CITY OF YONKERS, BOB CIAMARRA, JAMES HANNIGAN and MATT FOLEY have been on site of the construction and have or had failed to require the other defendants herein of their need to protect the property of the plaintiff, to intervene to protect the integrity of the plaintiff's residence and/or engaged in a practice, based on the information available to them, or ignoring the codes, rules and regulations it has promulgated or is required to enforce, to the detriment and damage of the plaintiff.

24. Plaintiff has sought the aid of the Defendant CITY OF YONKERS, BOB CIAMARRA, JAMES HANNIGAN and MATT FOLEY in the securing and maintenance of her home's integrity to no avail. The said defendants have known of and been on notice of the subject condition since before and following the initial failure of the steel sheathing. They have failed to require the other defendants to take steps to protect the adjoining property owner, to wit: plaintiff's property from the fate that has befallen it despite issuing stop work orders.

25. The Defendant CITY OF YONKERS, its agents and employees has issued an order barring the plaintiff from residing in her own home as it is determined

to be unsafe due the conduct and negligence of the defendants herein.

26. Plaintiff's residence has been rendered uninhabitable and, upon information and belief, irreparable. Accordingly plaintiff demands damages from the defendants in a sufficient sum to render her property safe, to rebuild her home and to re-install her furnishings as well as compensate her for the expenses she has incurred while being unable to use her own home.

27. The Defendant CITY OF YONKERS, BOB CIAMARRA, JAMES HANNIGAN and MATT FOLEY are people who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Locality have subjected the plaintiff, a citizen of the United States or other person within the jurisdiction thereof to a deprivation of any rights, privileges, or immunities secured by the Constitution and laws. Accordingly, said defendants are be liable to the plaintiff for redress and damages due to its failure to properly protect the plaintiff's property while approving the project of the defendant and for their failure to monitor the project, monitor the installation of the steel sheathing, periodically inspect same both prior to and after failures of same all to the detriment of and damage to the property of the plaintiff.

The injuries to plaintiff were caused by a policy of deliberate indifference, carelessness, negligence and recklessness of defendant CITY OF YONKERS with respect to the review, approval, monitoring and supervision of development proposals and construction sites, including but not limited to projects involving construction on steep slopes in densely populated neighborhoods.

Said injuries were also the result of a policy, custom and/or usage of said defendant to fail to train and supervise adequately its employees to enforce all

laws, regulations, codes and practices that exist to protect the health, safety and welfare of neighboring property owners.

The policies, practices, customs and usages of Defendant CITY OF YONKERS increased the danger to plaintiff and deprived her of rights and immunities secured by the 4th, 5th and 14th Amendment to the US Constitution in violation of 42 USC s 1983."

28. As a direct and proximate result of the foregoing action, said Defendants deprived the Plaintiff of rights, privileges and immunities secured by the Fourth, Fifth and Fourteenth Amendments to the United States Constitution in violation of 42 U.S.C. § 1983.

29. The Defendants CIAMARRA, HANNIGAN and FOLEY promulgated and engaged in policies, practices and customs of the City, complained of, as well as their omission, deprived said Plaintiff of her rights and immunities secured by the Fourth, Fifth and Fourteenth Amendments to the United States Constitution in violation of 42 U.S.C. § 1983.

30. As a result of the foregoing facts, defendants have diminished and damaged the integrity and value of plaintiff's property and deprived her not only of the enjoyment of her home, but its full economic value if sold or leased.

## **VII. PRAYER FOR RELIEF**

WHEREFORE, plaintiff demands judgment against the defendants as follows:

1- Compensatory damages.

2-Punitive damages against the individual defendants

- 3- Attorneys' fees and costs pursuant to 42 U.S.C. § 1988.
- 4- All together with interest, costs and disbursements.
- 5- Such other and further relief as this Court deems just and proper.

**A JURY TRIAL IS DEMANDED**

Dated: White Plains, New York

~~June 30~~, 2008

July 24

Yours, etc.

A handwritten signature in black ink, appearing to read "Arnold S. Kronick", followed by the handwritten text "AK2318".

ARNOLD S. KRONICK (2318)

Attorney for Plaintiff

199 Main Street

White Plains, New York 10601



STATE OF NEW YORK, COUNTY OF

ss:

Certification I, the undersigned, an attorney admitted to practice in the court of New York  
By Attorney State, certify that the within  
has been compared by me with the original and found to be a true and complete copy.

Attorney's I, the undersigned, state that I am the attorney(s) of record for Plaintiff in the within  
Affirmation action: I have read the foregoing

And know the contents thereof: the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe to be true. The reason this verification is made by me and not by Defendant is: **BECAUSE I MAINTAIN AN OFFICE IN A COUNTY OTHER THAN WHERE THE DEFENDANT MAINTAINS HIS PRINCIPAL RESIDENCE.**

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

My review of papers contained in the file and conversations with representatives of the Claimant

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: White Plains, New York

STATE OF NEW YORK, COUNTY OF WESTCHESTER

ss:

**X** I, **SHEILA L. BISHOP**, being duly sworn, depose and say: I am the Plaintiff  
Individual in the within action: I have read the foregoing **VERIFIED COMPLAINT**  
Verification and know the contents thereof; and the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.

  
SHEILA L. BISHOP

Sworn to before me on this  
24 day of July, 2008



ARNOLD S. KRONICK  
NOTARY PUBLIC, STATE OF NEW YORK  
Reg. No. 4603221  
Qualified in Rockland County  
Commission Expires June 30, 2010